

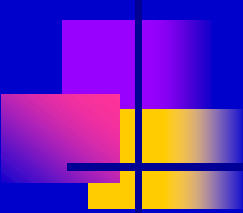
Isolation and Quarantine Law in North Carolina

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Agenda

- Sources of law
- Definitions
- Legal authorities and legal constraints
- Mass quarantine/snow days
- Duties to isolated/quarantined persons



Principal sources of law

- State law
 - North Carolina General Statutes (G.S.)
 - North Carolina Administrative Code (N.C.A.C.)
- Federal law
 - United States Code (U.S.C.)
 - Code of Federal Regulations (C.F.R.)
 - Presidents' Executive Order (E.O.)



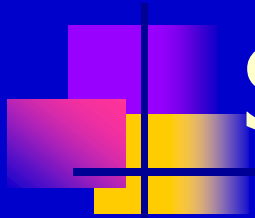
Other sources

- Cases

- Apply constitutional principles
- Interpret and apply statutes and regulations

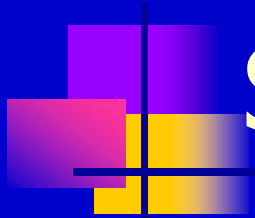
- Model Laws?

- Not authoritative—models/templates only
- Not the law in NC (though some principles match)



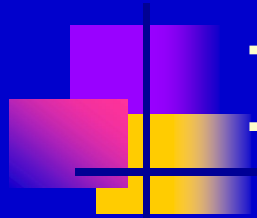
State law

- North Carolina General Statutes (G.S.)
 - Define terms
 - Grant and limit authority
 - Provide explicit due process protections to individuals affected by orders
 - Make violation of orders a misdemeanor
 - Address detention of arrestees who pose a public health threat



State law

- North Carolina Administrative Code (N.C.A.C.)
 - Establishes communicable disease control measures
 - Imposes explicit restrictions on some orders



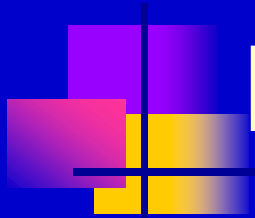
Isolation authority

- The authority to limit the freedom of movement or action of a person or animal who has a communicable disease or condition.



Quarantine authority

- The authority to:
 - Limit the freedom of movement or action of a person who has been/is reasonably suspected of having been exposed to a communicable disease or condition
 - Limit access to an area or facility that may be contaminated with an infectious agent
 - Limit the freedom of movement or action of unimmunized persons in an outbreak



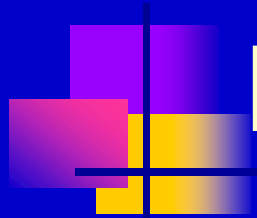
Movement versus action

- Limitation on freedom of movement: Can't go somewhere.
 - Can't leave home.
 - Can't go to work.
- Limitation on freedom of action: Can move around freely, but can't behave in certain ways.
 - No sex till you're cured of STD.
 - No donating blood if you have HIV.



Ordering isolation/quarantine

- Authority to order:
 - Local health director
 - State health director
- When can be ordered:
 - When and so long as public health is endangered
 - All other reasonable means exhausted
 - No less restrictive alternative exists



Limitations on I/Q orders

- HIV, hepatitis B, STDs, TB: orders can be no more restrictive than the control measures specified for those diseases in the N.C. Administrative Code
- Other CD/CCs: orders should be consistent with the control measures for those diseases in CDC guidelines or the APHA's CD Control Manual



Orders in a terrorist incident

- What can be ordered:
 - Test property for NBC agents
 - Evacuate or close property for investigations
 - Abatement of public health threat caused by contamination with NBC agent
 - Tests or examinations of persons or animals



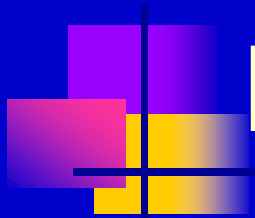
Orders in a terrorist incident

- What can be ordered:
 - Limitations on freedom of movement or action of person/animal contaminated with NBC agent
 - Limitation on access to:
 - An area or facility housing persons whose movement/action limited, or
 - Area or facility reasonably believed to be contaminated with NBC agent



Orders in a terrorist incident

- Authority to order:
 - State health director only
- When can be ordered:
 - When and so long as a public health threat may exist
 - All other reasonable means exhausted
 - No less restrictive alternative exists



How long can orders persist?

- Limitations on freedom of action:
 - So long as public health is endangered
 - No other explicit limits in law
- Limitations on freedom of movement or access:
 - So long as public health is endangered, up to a maximum of 10 days for initial order



If 10 days is not enough ...

- Seek order extending time period in superior court in county where order issued, or Wake county if person has already instituted action there
- If health director shows by preponderance of evidence that limitation of freedom of movement reasonably necessary to prevent/limit conveyance of CD/CC, court SHALL continue limitation for up to 30 days



If 10 days is not enough ...

- If that is still not enough time to protect the public health, can return to court and seek additional extensions of up to 30 days each



Can a person object to orders?

- Yes.
- If order limits freedom of movement or access:
 - Institute an action in superior court of county where I/Q ordered or Wake county
 - Court must hold hearing within 72 hours (excluding Saturdays and Sundays)



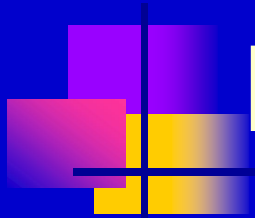
Can a person object to orders?

- Person entitled to attorney
- If person shows by preponderance of evidence that limitation not reasonably necessary to prevent or limit conveyance of CD/CC, court SHALL reduce limitation



Can a person object to orders?

- If order limits freedom of action:
 - Have a right to obtain some review
 - Issue is how—statute doesn't spell out
 - Probably would institute action in superior court seeking declaratory judgment or injunction



Enforcement

- Criminal: misdemeanor charge
- Issue: arrest and detention of a person who can spread disease
- New criminal procedure laws:
 - Law enforcement officer who arrests a person for violating an order limiting freedom of movement or access may detain person in an area designated by health director. G.S. 15A-401(b)(4).



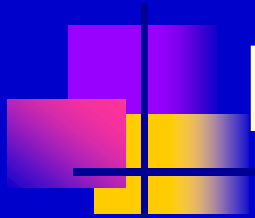
Enforcement

- At the first appearance, judicial official must consider whether the person poses a threat to the health and safety of others.
- If judicial official determines by clear and convincing evidence that person poses a threat, official must deny pretrial release and order person confined in an area that the official designates after receiving recommendations from health director.



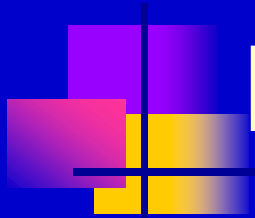
Enforcement

- Civil: If person violates public health laws or rules, health director can request injunction from superior court in county where violation occurred



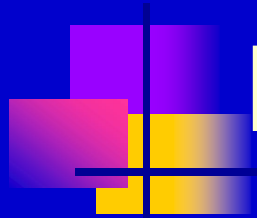
Federal law

- United States Code (U.S.C.)
 - Authorizes federal officials to control movement of persons to prevent spread of disease
 - Provides penalties for violations
 - Directs federal officials to assist states and local governments
 - Provides for care and treatment of detained persons



Federal law

- Code of Federal Regulations (C.F.R.)
 - Authorizes CDC director to intervene when local action inadequate
 - Prohibits individuals with certain CDs from traveling interstate without permission
 - Authorizes CDC director to detain, isolate, or quarantine persons with CDs named by president in EO



Executive Order 13295

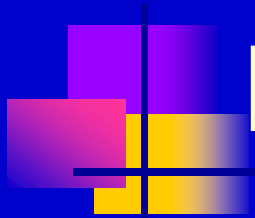
Specifies CDs subject to federal detention, isolation, or quarantine:

- Cholera
- Diphtheria
- Infectious TB
- Plague
- Smallpox
- Yellow fever
- Viral hemorrhagic fevers
- SARS



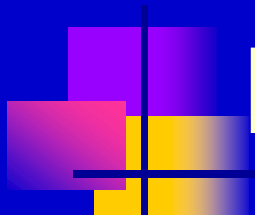
Summary of I/Q jurisdiction

	Has I/Q authority:	CDs affected:
Local health director	In area served by local health department	Any for which I/Q a control measure
State health director*	Statewide	Any for which I/Q a control measure
CDC director**	Nationwide	Those in EO



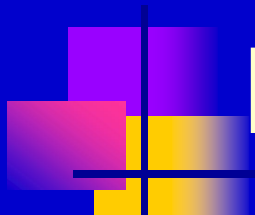
Mass Quarantine

- In NC, quarantine authority is authority to:
 - Limit the freedom of movement or action of exposed person
 - Limit access to an area or facility that may be contaminated with an infectious agent
 - Limit the freedom of movement or action of unimmunized persons in an outbreak



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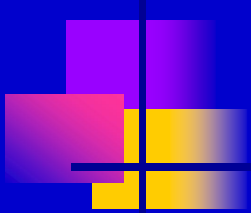
Who can order “Snow Day”?

- County or city ordinances on states of emergency can regulate:
 - The movement of people in public places
 - The operation of offices, business establishments, and other places where people may congregate
 - Other activities or conditions that may need to be controlled to maintain order and protect lives or property



Who can order “Snow Day”?

- Governor has statewide authority in disasters under state emergency management laws
- Governor also can intervene when local efforts to control a state of emergency are insufficient to assure adequate protection of lives and property



“If you put them away,
you own them.”

Dr. Georges Benjamin
May 5, 2004